

Members

Sen. Sue Landske  
Sen. David Ford  
Sen. James Arnold  
Sen. John Broden  
Rep. Kreg Battles  
Rep. Philip GiaQuinta  
Rep. Robert Behning  
Rep. Ralph Foley  
Hon. John G. Baker  
Michael McMahon  
Jerry Bonnet  
Jason Thompson  
John Okeson



## CODE REVISION COMMISSION

*Legislative Services Agency*  
200 West Washington Street, Suite 301  
Indianapolis, Indiana 46204-2789  
Tel: (317) 233-0696 Fax: (317) 232-2554

LSA Staff:

John Stieff, Attorney for the Commission

Authority: IC 2-5-1.1-10

### MEETING MINUTES<sup>1</sup>

Meeting Date: August 16, 2007  
Meeting Time: 10:00 A.M.  
Meeting Place: State House, 200 W. Washington St., Room 233  
Meeting City: Indianapolis, Indiana  
Meeting Number: 1

**Members Present:** Sen. Sue Landske, Acting Chair; Sen. David Ford; Sen. James Arnold; Rep. Robert Behning; Rep. Ralph Foley; Hon. John G. Baker; Mr. Michael McMahon; Mr. Jerry Bonnet; Mr. John Okeson.

**Members Absent:** Sen. John Broden; Rep. Kreg Battles; Rep. Philip GiaQuinta; Mr. Jason Thompson.

**Staff Present:** Mr. John Stieff, Director, Office of Code Revision, Legislative Services Agency; Mr. Craig Mortell, Deputy Director, Office of Code Revision; Mr. Steve Wenning, Senior Staff Attorney, Office of Bill Drafting and Research; Mr. Dick Sheets, Editorial Assistant, Office of Code Revision; Mr. John Kline, Attorney, Office of Code Revision.

---

<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

## **I. CALL TO ORDER**

The meeting was called to order at 10:10 a.m. by Senator Sue Landske, Acting Chair.

## **II. ELECTION OF CHAIR**

A motion was made and seconded to nominate Representative Philip GiaQuinta to be the new Chairman of the Code Revision Commission. Representative GiaQuinta was elected Chairman by consent.

## **III. INTRODUCTORY REMARKS**

Mr. John Stieff, Director, Office of Code Revision, Legislative Services Agency, described five topics for discussion for this year's Code Revision Commission:

- (1) The recodification of the laws concerning agriculture and animals in Title 15 of the Indiana Code.
- (2) The annual technical corrections bill to correct errors in the Indiana Code.
- (3) The possibility of revising the administrative rules drafting manual.
- (4) The possibility of revising the legislative drafting manual.
- (5) A proposal to change the way Joint Rule 20 motions are presented from the Office of Code Revision. Mr. Stieff discussed using text comparison technology as the basis for Joint Rule 20 motions. Hon. John G. Baker asked Mr. Stieff if the change would be within the authority of the Commission. Mr. Stieff responded that the Commission can make recommendations to the Legislative Council for the presentation of Joint Rule 20 motions, and Mr. Craig Mortell cited an Indiana Code provision that gives the Commission the power to review the form of legislative documents. Senator David Ford stated that comparison documents would be helpful in determining what the Joint Rule 20 motions do, and that he would like to see comparison documents for all amendments. Representative Ralph Foley said that comparison documents would be beneficial, especially late in the legislative session when Joint Rule 20 motion explanations become more perfunctory because of time constraints.

Mr. Stieff suggested that these items could be discussed in two or three meetings of the Code Revision Commission.

## **IV. REVIEW OF MINUTES**

The Commission reviewed the minutes of the Commission's last meeting on September 26, 2006, and there were no questions. The Commission approved the minutes by consent.

## **V. RECODIFICATION OF TITLE 15**

Mr. Steve Wenning, Senior Staff Attorney, Office of Bill Drafting and Research, Legislative Services Agency, provided an introduction to the project for the Recodification of Title 15 of the Indiana Code, regarding Agriculture and Animals. Mr. Wenning discussed several topics in Title 15, including the creation of the Indiana Board of Animal Health and the Department of Agriculture, the authorization of local weed control boards, the regulation of State and County Fairs, meat and poultry inspection, and the licensing of veterinarians.

Mr. Wenning stated that the process of this proposed recodification began in January 2007 with the help of a legal intern, Doug Fivecoats, who prepared the preliminary outline

of the reorganization of Title 15. Mr. Wenning prepared a mailing list of interested parties, including almost 150 individuals and organizations. The list is composed of names from last year's mailing list that are interested in the Recodification (e.g. Indiana State Bar Association & Registered Lobbyists), State Agencies that are involved in Title 15 programs (e.g. Indiana Department of Agriculture & Indiana Professional Licensing Agency), names from the 2007 Indiana Lobbyist Guide that appeared to have an agricultural interest, potential interested parties submitted by other organizations (e.g. Board of Animal Health & Purdue University), and entities from an Internet search of other societies or organizations that may have an interest in the provisions of Title 15 (e.g. Indiana Meat Packers Association; Central Indiana Racing Pigeon Club; & Indiana Association of Fairs, Festivals and Events). Mr. Wenning asked the Commission to provide any additional entities for him to add to the list at the Commission's convenience.

Mr. Wenning then discussed his evaluation of the preliminary outline for the recodification. He made several modifications to the outline and the product of the work was sent to the Commission members. The outline would create 12 Articles and move two topics to more appropriate locations:

- Veterinarians - the law would be moved from IC 15 to IC 25, with the law concerning other Licensed Professions
- Prohibited Methods of destroying Animals - the law would be moved from IC 15 to IC 36-46-3-14 - the law concerning offenses related to animals

Representative Foley asked if there were any references to concentrated animal feeding operations (CAFOs) in the Recodification and whether there should be any notation in the agricultural law provisions to refer the reader to the environmental law provisions. Mr. Stieff stated that legislative roadmaps are sometimes used for some items and that the staff could look into doing that for the law concerning CAFOs. Representative Foley stated that he is glad the crimes and infractions related to animal health will be included in a separate Article to make them more visible and easier to find. Senator Ford asked if there would be a cross-reference to these crimes and infractions in Title 35. Mr. Stieff stated that the staff could look into that issue as well.

Mr. Wenning explained that the materials were mailed out to all interested parties on July 26 and included a letter explaining the purpose of the Recodification Project, which is to restate the current law in a more organized manner, using modern language that will make the law easier to read and find, and to resolve ambiguities in the current law whenever possible. The letter emphasized that the purpose of Recodification is not to make any substantive change to the law.

The letter asked that any comments concerning the organizational structure of the outline be sent to Mr. Wenning by July 14th. Only one comment was received - from the Indiana Board of Animal Health. The Board expressed concern that programs that they administer would be separated into different articles. Mr. Wenning discussed the matter with the Board of Animal Health's Director of Legal Affairs and agreed that Articles 17 and 18 of the proposed outline should be merged. This change would also reduce some duplication of definitions and the need for cross references to the Board's Administrative Hearing and Enforcement Chapters. The change would combine all the Board of Animal Health's programs into one article except for:

- Milk and Milk Product Permits which would remain in the Dairy Products Article - found in Article 19, Chapter 1; and
- Livestock Brands which would remain in the Livestock Article - which is found in Article 20, Chapter 7.

Senator Landske expressed her concern that only one interested party responded to the letter describing the Recodification. She requested that the staff continue to keep the interested parties informed and to include the minutes of this meeting in any correspondence as a reminder that the Commission is now meeting to discuss the Recodification.

Mr. Wenning asked the Commission to accept this proposed change, and if so, he would amend the outline to merge Articles 17 and 18 and renumber the subsequent Articles. Mr. Wenning concluded by stating that: (1) he will be working with state agencies and interested parties to resolve any ambiguities found; (2) he will prepare a companion bill for the Commission's consideration to deal with any obsolete provisions found and any substantive matters; and (3) prepare disposition and derivation tables containing both the old citations and the new citations of the recodified language. Mr. Stieff stated that obsolete provisions would be repealed if the staff is 100% sure that the provision is obsolete, but that all other provisions would be presented to the Commission for a decision.

Mr. Wenning asked for questions or comments from the Commission. Judge Baker inquired why a specific part of the Recodification began with Article 10 when there were Article numbers available prior to the number 10. Mr. Stieff commented that it is the Office of Code Revision's standard procedure to not reuse repealed Indiana Code Article numbers. To reuse a repealed number would lead to confusion.

A representative from the Indiana State Department of Agriculture testified that the department had reviewed parts of the outline and wanted to continue to work with LSA to ensure a smooth recodification process. The representative noted that the Indiana Code uses the term "department of agriculture", and that the department would like to change those references to "Indiana state department of agriculture". Mr. Stieff responded that the staff takes a conservative approach to the recodification and that a name change could have a fiscal impact. Mr. Stieff recommended that this change not be made. Senator Landske agreed and stated that those items may be addressed in a trailer bill. The representative then discussed items in Title 4 concerning the roles of the Lieutenant Governor and the Secretary of Agriculture, and explained that the items in Title 4 would be more appropriately placed in Title 15 and that a reference to "director" should be changed to "secretary", since the Secretary of Agriculture is responsible for the duties referenced. Senator Ford commented that the name change appeared to be a substantive issue. Mr. Stieff stated that the provision could be moved to Title 15 without a change in the language.

Mr. Wenning asked that the Commission accept the proposed Recodification outline as amended, with approval to move the item discussed from Title 4 to Title 15. The Commission approved the outline with changes by consent.

## **VI. TECHNICAL CORRECTIONS BILL**

Craig Mortell, Deputy Director of the Office of Code Revision, spoke to the Commission about the first draft of the 2008 technical corrections (TC) bill, which had been mailed to members before the meeting. Referring to the draft and the SECTION-by-SECTION outline that accompanied it, Mr. Mortell stated that the 2008 TC bill, like past TC bills, will consist of SECTIONS of two general types: (1) those that resolve "conflicts" (that is, situations involving Code sections that were amended differently by two or more 2007 acts, with the result that the Indiana Code now contains two or more versions of each of those Code sections); and (2) those that deal with a variety of other technical problems in the Indiana Code such as misspelled words, incorrect internal references, tabulation irregularities, and grammatical problems.

Mr. Mortell explained that technical problems of the second type come to light in a number of ways: some are discovered when the "daily action files" (in which technical problems in House and Senate bills are noted during the legislative session) are reviewed after the session ends; some are recognized during the work leading to the post-session republication of the Indiana Code; some are discovered and brought to the attention of the Office of Code Revision (OCR) by the attorneys in Legislative Services Agency's Office of Bill Drafting and Research, who review all of the acts after session ends; and some are discovered and referred to OCR by persons outside the Legislative Services Agency.

Representative Ralph Foley asked Mr. Mortell about SECTION 11 of the draft, which amended IC 6-1.1-12.4-2 (part of the property tax law) and contained a provision in which "March 2, 2009" was being changed to "March 2, 2007". Mr. Mortell replied that the SECTION in question was a conflict resolution SECTION integrating the two different versions of IC 6-1.1-12.4-2 that resulted when IC 6-1.1-12.4-2 was amended in different ways in 2007 by SEA 287 [P.L.219-2007] and HEA 1001 [P.L.234-2007]. Representative Foley and Senator David Ford urged the use of great care in dealing with IC 6-1.1-12.4-2, and Mr. Stieff stated that OCR would be quite willing to delete the SECTION resolving the IC 6-1.1-12.4-2 conflict from the TC bill draft if there was concern on the part of the Commission that the SECTION might be perceived as making a substantive change in the law.

Representative Foley then asked Mr. Mortell about SECTION 18 of the draft, which would add a new section to the Indiana Code as IC 8-1-17-18.1. Mr. Mortell replied that SECTION 18 and SECTION 19 are intended to resolve a problem that was caused in the 2007 TC bill when the version of IC 8-1-17-18 that was to take effect on July 1, 2009, was amended to make a technical correction, and the amendment was mistakenly made effective upon passage (March 30, 2007), thus bringing the 2009 version of IC 8-1-17-18 into effect early. To resolve this problem, Mr. Mortell explained, the 2008 TC bill will: (1) repeal IC 8-1-17-18 effective upon passage; (2) add a new IC 8-1-17-18.1 that will take effect upon passage and will contain the text of IC 8-1-17-18 as it was intended to read before the 2009 version became effective; and (3) add a new IC 8-1-17-18.2 that will take effect on July 1, 2009, and will contain the text of the 2009 version of IC 8-1-17-18, including the 2007 TC bill technical correction. All of this, Mr. Mortell said, is being done simply to restore IC 8-1-17 to the state it was in (except for the technical correction) before the 2007 TC bill mistakenly accelerated the effective date of the 2009 version of IC 8-1-17-18.

John Okeson, Senior Legislative Counsel of the governor's office, asked about SECTIONS 63, 64, and 65 of the TC bill draft, which amend IC 36-8-22-13, IC 36-8-22-14, and IC 36-8-22-16. In each of these SECTIONS a reference to an "agreement entered into under section 12 of this chapter" was being changed to an "agreement entered into under this chapter" because the "section 12" in question (IC 36-8-22-12) does not specifically provide for entering into an agreement. Mr. Okeson expressed concern that the proposed change might be interpreted as indicating that some section of IC 36-8-22 other than section 12 was the source of authority for the formation of an agreement when this had not been the intent of the General Assembly. As with SECTION 11 (amending IC 6-1.1-12.4-2), Mr. Stieff and Mr. Mortell assured the Commission that OCR would eliminate SECTIONS 63, 64, and 65 from the TC bill draft if there was concern on the part of the Commission that the SECTION might be perceived as making a substantive change in the law.

Senator Landske directed OCR to reconsider the inclusion of SECTION 11, SECTION 18, and SECTIONS 63, 64, and 65 in the 2008 TC bill and report back to the Commission about these SECTIONS at its next meeting.

#### **VII. OTHER BUSINESS**

The timing for the next Commission meeting was discussed, subject to the approval of the new Chairman. The Commission tentatively scheduled the next meeting for the morning of October 25 by consent. Senator Landske thanked the members, staff, and participants present.

#### **VIII. ADJOURNMENT**

The meeting was adjourned by Senator Landske at 11:25 a.m.